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4 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 JEROME CEASAR ALVERTO,

7 Plaintiff,

8 v.

9 BRYAN DWAIN CLINE,

10 Defendants.

Case No. C19-5053-RBL-TLF

ORDER DIRECTING SERVICE OF  
CIVIL RIGHTS COMPLAINT

11 This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding  
12 with this action *pro se* and *in forma pauperis*. The Court, having reviewed plaintiff's amended  
13 complaint, hereby ORDERS as follows:

14 (1) Service by Clerk

15 The Clerk is directed to send the following to defendant Bryan Dwain Cline, Deputy,  
16 Pierce County Sheriff's Department, by first class mail: a copy of plaintiff's Amended  
17 Complaint, a copy of this Order, two copies of the notice of lawsuit and request for waiver of  
18 service of summons, a waiver of service of summons, and a return envelope, postage prepaid,  
19 addressed to the Clerk's Office.

20 The Clerk shall also send courtesy copies of this Order and the Amended Complaint to  
21 the Pierce County Prosecuting Attorney's Office.

22 (2) Response Required  
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1 Defendant(s) shall have **thirty (30) days** within which to return the enclosed waiver of  
2 service of summons. A defendant who timely returns the signed waiver shall have **sixty (60)**  
3 **days** after the date designated on the notice of lawsuit to file and serve an answer to the  
4 complaint or a motion permitted under Rule 12 of the Federal Rules of Civil Procedure.

5 A defendant who fails to timely return the signed waiver will be personally served with a  
6 summons and complaint, and may be required to pay the full costs of such service, pursuant to  
7 Rule 4(d)(2) of the Federal Rules of Civil Procedure. A defendant who has been personally  
8 served shall file an answer or motion permitted under Rule 12 within **twenty-one (21) days** after  
9 service.

10 (3) Filing and Service by Parties, Generally

11 All attorneys admitted to practice before this Court are required to file documents  
12 electronically via the Court's CM/ECF system. Counsel are directed to the Court's website,  
13 [www.wawd.uscourts.gov](http://www.wawd.uscourts.gov), for a detailed description of the requirements for filing via CM/ECF.  
14 All non-attorneys, such as *pro se* parties and/or prisoners, may continue to file a paper original  
15 with the Clerk. All filings, whether filed electronically or in traditional paper format, must  
16 indicate in the upper right hand corner the name of the magistrate judge to whom the document  
17 is directed.

18 For any party filing electronically, when the total of all pages of a filing exceeds fifty  
19 (50) pages in length, a paper copy of the document (with tabs or other organizing aids as  
20 necessary) shall be delivered to the Clerk's Office for chambers. The chambers copy must be  
21 clearly marked with the words "Courtesy Copy of Electronic Filing for Chambers."

22 Any document filed with the Court must be accompanied by proof that it has been served  
23 upon all parties that have entered a notice of appearance in the underlying matter.  
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1           (4)     Motions, Generally

2           Any request for court action shall be set forth in a motion, properly filed and served.  
3 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a  
4 part of the motion itself and not in a separate document. The motion shall include in its caption  
5 (immediately below the title of the motion) a designation of the date the motion is to be noted for  
6 consideration upon the Court's motion calendar.

7           Stipulated and agreed motions, motions to file over-length motions or briefs, motions for  
8 reconsideration, joint submissions pursuant to the option procedure established in LCR 37(a)(2),  
9 motions for default, requests for the clerk to enter default judgment, and motions for the court to  
10 enter default judgment where the opposing party has not appeared shall be noted for  
11 consideration on the day they are filed. *See* LCR 7(d)(1). All other non-dispositive motions  
12 shall be noted for consideration no earlier than the third Friday following filing and service of the  
13 motion. *See* LCR 7(d)(3). All dispositive motions shall be noted for consideration no earlier  
14 than the fourth Friday following filing and service of the motion. *Id.*

15           For electronic filers, all briefs and affidavits in opposition to either a dispositive or non-  
16 dispositive motion shall be filed and served not later than 11:59 p.m. on the Monday  
17 immediately preceding the date designated for consideration of the motion. If a party (i.e. a *pro*  
18 *se* litigant and/or prisoner) files a paper original, that opposition must be received in the Clerk's  
19 office by 4:30 p.m. on the Monday preceding the date of consideration.

20           The party making the motion may file and serve, not later than 11:59 p.m. (if filing  
21 electronically) or 4:30 p.m. (if filing a paper original with the Clerk's office) on the date  
22 designated for consideration of the motion, a reply to the opposing party's briefs and affidavits.

23           (5)     Motions to Dismiss and Motions for Summary Judgment  
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1 Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil  
2 Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil  
3 Procedure should acquaint themselves with those rules. As noted above, these motions shall be  
4 noted for consideration no earlier than the fourth Friday following filing and service of the  
5 motion.

6 Defendants filing motions to dismiss based on a failure to exhaust or motions for  
7 summary judgment are advised that they **MUST** serve a *Rand* notice concurrently with motions to  
8 dismiss based on a failure to exhaust and motions for summary judgment so that *pro se* prisoner  
9 plaintiffs will have fair, timely and adequate notice of what is required of them in order to  
10 oppose those motions. *Woods v. Carey*, 684 F.3d 934, 941 (9th Cir. 2012). The Ninth Circuit  
11 has set forth model language for such notices:

12 A motion for summary judgment under Rule 56 of the Federal Rules of  
13 Civil Procedure will, if granted, end your case.

14 Rule 56 tells you what you must do in order to oppose a motion for  
15 summary judgment. Generally, summary judgment must be granted when  
16 there is no genuine issue of material fact – that is, if there is no real  
17 dispute about any fact that would affect the result of your case, the party  
18 who asked for summary judgment is entitled to judgment as a matter of  
19 law, which will end your case. When a party you are suing makes a  
20 motion for summary judgment that is properly supported by declarations  
21 (or other sworn testimony), you cannot simply rely on what your  
22 complaint says. Instead, **you must set out specific facts in declarations,  
depositions, answers to interrogatories, or authenticated documents,  
as provided in Rule 56(e), that contradict the facts shown in the  
defendant's declarations and documents and show that there is a  
genuine issue of material fact for trial. If you do not submit your own  
evidence in opposition, summary judgment, if appropriate, may be  
entered against you. If summary judgment is granted, your case will  
be dismissed and there will be no trial.**

*Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added.)

23 Defendants who fail to file and serve the required *Rand* notice on plaintiff may have their  
24 motion stricken from the Court's calendar with leave to re-file.

(6) Direct Communications with District Judge or Magistrate Judge

No direct communication is to take place with the District Judge or Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk.

(7) The Clerk is directed to send copies of this Order and of the Court's *pro se* instruction sheet to plaintiff.

Dated this 4th day of April, 2019.

Theresa L. Fritke

Theresa L. Fricke  
United States Magistrate Judge